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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,381	05/24/2001	Robert A. Blanchette	600.516US1	9502

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.  
P.O. BOX 2938  
MINNEAPOLIS, MN 55402

EXAMINER

KIZILKAYA, MICHELLE R

ART UNIT PAPER NUMBER

1661

DATE MAILED: 10/02/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/863,381

Applicant(s)

BLANCHETTE et al.

Examiner

KIZILKAYA

Group Art Unit

1661

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 6/6/02
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) \_\_\_\_\_ is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☒ Claim(s) 1-47 are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

**Election Restriction**

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-41, drawn to the method of making Agarwood classified in class 47, subclass 58.1
- II. Claim 42, drawn to product of Agarwood classified in class 424 subclass 769
- III. Claim 43, drawn to product of Agarwood classified in class 424 subclass 769
- IV. Claims 44, 46 drawn to the method of purifying Agarwood resin classified in class 585 subclass 800
- V. Claims 45, 47, drawn to purified resin from the Agarwood classified in class 424 subclass 40

The inventions are distinct , each from the other because:

Inventions I, and II-III are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to

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make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product of II and III can be obtained by harvesting naturally occurring agarwood.

Groups I and IV are distinct because they are drawn to materially different processes which use different starting materials and methods, and yield different products. Different searches would be required for examination of the two methods. Furthermore, there is nothing on the record to indicate that the methods are obvious variants. Therefore they are deemed patentably distinct.

Groups I and V are distinct because the method of I is not required to make the product of V, nor is the product of V required to practice the method of I. The product of V may be produced using naturally occurring agarwood as a starting material. Therefore the inventions are deemed patentably distinct.

Groups II, III and V are distinct, each from the others, because the three products are produced by different methods, each requiring a different search. Furthermore, there is nothing on the record to indicate that the compositions are obvious variants. Thus they are deemed patentably distinct.

Inventions II-III, and IV are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product of II and III can be burned without further purification.

Inventions IV and V are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product of V can be made by purification of naturally occurring agarwood.

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Because these inventions are distinct for the reasons given above , and have acquired a separate status in the art because of their divergent subject matter, restriction for examination purposes as indicated is proper.

Applicants are advised that the reply to this requirement to be complete must include an election of the invention to be examine even though the requirement be traversed (37 CFR 1.143).

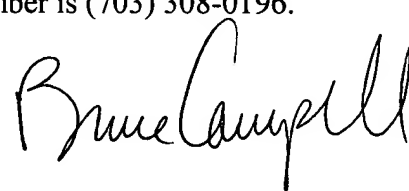
### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle R. Kizilkaya whose telephone number is (703) 308-4324. The Examiner can normally be reached Monday through Friday from 9:00 a.m to 5:30 p.m..

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Bruce Campell, can be reached on (703) 308-4205. The fax number for the group is (703) 305-3041 or 308-4242.

Any inquiry of a general nature or relating to the status of this application should be directed to the Matrix Customer Service Center whose telephone number is (703) 308-0196.

M.R. Kizilkaya

  
**BRUCE R. CAMPPELL, PH.D.**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 1600**